

THE UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES



REPORT ON THE
DEBTOR IDENTIFICATION PILOT PROGRAM

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Sue Ann Slates
Project Coordinator

EXECUTIVE SUMMARY

Description of the Debtor Identification Pilot Program

The United States Trustee Program developed the Debtor Identification Pilot Program as an initiative to confirm debtors' identities and social security numbers, to ensure a more accurate bankruptcy court record, and to assess whether the problems of misidentified debtors and incorrect social security numbers on petitions were widespread. The initiative included efforts to help innocent victims whose credit reports could be affected by the use of incorrect social security numbers on bankruptcy petitions.

In pilot districts, all individuals who filed a bankruptcy petition under chapter 7 or chapter 13 of the Bankruptcy Code (11 U.S.C.) were required to bring two forms of original documentation to the section 341 meeting of creditors: photo identification and confirmation of their social security number. These documents allowed the trustee conducting the section 341 meeting to verify the identifying information that debtors had disclosed on their bankruptcy petitions and to report any discrepancies to the United States Trustee offices for tracking and follow-up. Acceptable forms of picture identification (ID) included: (1) driver's license, (2) government ID, (3) state picture ID, (4) student ID, (5) U.S. passport, (6) military ID, and (7) resident alien card. Acceptable forms of proof of social security number included: (1) social security card, (2) medical insurance card, (3) pay stub, (4) W-2 form, (5) IRS Form 1099, and (6) Social Security Administration (SSA) report.

Trustees proceeded with the usual questions at the section 341 meeting (the statutorily required first meeting of creditors), but did not conclude the meeting if the debtor failed to bring the proof of identification or social security number to the meeting, or if the name or social security number did not match the information on the petition. Instead, the meeting was continued to the trustee's next scheduled meeting date for production of the documentation. In cases involving typographical errors of social security numbers, debtors were required to file an amended petition before the next scheduled meeting. Trustees referred cases to the United States Trustee for appropriate action if debtors failed to provide the documentation or to file amended petitions. Appropriate action could include a motion to dismiss the case, an objection to bankruptcy discharge, or an objection to confirmation of a chapter 13 repayment plan. Instances of possible identity fraud were referred to the United States Attorney for criminal investigation.

The Debtor Identification Pilot Program was based on an identification project started in September 1999 in Region 11 (Wisconsin and the Northern District of Illinois) by United States Trustee Ira Bodenstein and on similar practices found in several other districts around the country. The Region 11 project was expanded and further tested for the six-month period January 1, 2001 through June 30, 2001 in 18 federal judicial districts, with 25 participating United States Trustee offices located in 14 regions.

Coordination with Major Credit Reporting Agencies for Victim Assistance

A national credit reporting trade association and representatives for three major credit reporting agencies were contacted and asked to coordinate and establish error-reporting protocols and national points of contact for the pilot program. The pilot offices developed a form “Notice of Correction of Social Security Number” for practitioners to send to the major credit reporting agencies with a copy of the amended petition. The representatives established special addresses for this purpose. These efforts were designed to help innocent victims whose credit reports may be affected by the intentional or inadvertent use of their personal identifiers in connection with the filing of a bankruptcy petition.

Publicity of the Pilot Program

Before putting the pilot in place, the pilot offices coordinated with the bankruptcy judges, bankruptcy court clerks, bankruptcy practitioners, and the chapter 7 and chapter 13 trustees. Also, a vigorous effort was made to notify local newspapers, professional journals, newsletters, trustee associations, bar associations, and pro bono and legal services attorneys of the pilot program. The response to the pilot program was overwhelmingly positive as legal communities recognized the new procedures would help prevent harm to innocent victims and ensure a more accurate court record.

Significant Findings

The pilot study involved 127,590 consumer chapter 7 and chapter 13 cases filed in the first half of 2001 in 18 federal judicial districts. The cases in the 18 pilot districts accounted for about 17 percent of the 746,489 consumer cases filed nationwide during the six-month period. There were 1,229 debtor identification and social security number problems found in 1,225 cases, or about one percent of the total pilot cases filed. While most of the problems were typographical errors (81.9%), some involved questionable names or identity documents (15.5%), and possible misuse or falsification of social security numbers (2.6%).

The following example illustrates the success of the pilot program in uncovering identity fraud. A chapter 7 debtor had purchased a social security number belonging to another person and used it for 12 years for payroll deductions at work, tax returns, an application for medicaid benefits, applications to obtain credit, and on his bankruptcy petition. All the debt listed on the bankruptcy schedules had been incurred under the purchased social security number. The pilot office conducted a public data base search of the purchased number and found the person whose social security number had been sold to the debtor. The victim had been having trouble with refinancing a house and with a rollover of her 401K retirement plan. The Assistant United States Trustee referred the matter to the United States Attorney for criminal investigation. The bankruptcy court granted a motion to strike the victim’s social security number from the court record, and the debtor converted to a chapter 13 case and proposed to repay creditors 100 percent in a chapter 13 plan.

Participating United States Trustee offices reported taking 1,122 pilot-related actions during the six-month period. There were 934 instructions to debtors or counsel to amend petitions, 39 motions to dismiss cases, 1 complaint objecting to the debtor's discharge, and 2 objections to confirmation of chapter 13 plans. The pilot offices were successful in achieving 1,039 favorable outcomes, including 875 amended petitions filed, 22 cases dismissed, and 1 chapter 13 plan denied. Some matters were still pending at the end of the pilot's final reporting period.

Other findings showed that there was significant variation by office in the proportion of problem cases. Overall, the percentage of cases with problems was nearly the same for chapter 7 and chapter 13. Also, there was no clear pattern as to whether the percentage of problems in cases increased or decreased during the course of the six-month pilot study. The number of problems reported generally fluctuated along with the increase or decrease in total bankruptcy case filings during the reporting period.

Projections for a National Debtor Identification Program

Based on the findings of the pilot study, there would be an estimated 12,948 identity and social security number problems in the 1,348,720 chapter 7 and chapter 13 consumer cases filed nationwide for the year ended June 30, 2001. Due to the anticipated increase in bankruptcy filings, the total problems could be expected to exceed 15,000 in 2002 if this situation were not corrected.

Conclusion

The Debtor Identification Pilot Program was successful in confirming each consumer debtor's identity and social security number, ensuring a more accurate court record, and protecting the credit report of innocent persons from being affected by the use of incorrect social security numbers in bankruptcy. More importantly, the pilot demonstrates that there are a significant number of problems regarding misidentified debtors and incorrect social security numbers but that most of these problems can be addressed by implementing relatively simple procedures.

I. IMPLEMENTATION

A. BACKGROUND INFORMATION

The United States Trustee Program developed the Debtor Identification Pilot Program as an initiative to confirm debtors' identities and social security numbers, to ensure a more accurate bankruptcy court record, and to assess whether the problems of misidentified debtors and incorrect social security numbers on petitions were widespread. The initiative included efforts to help innocent victims whose credit reports could be affected by the use of incorrect social security numbers on bankruptcy petitions.

The project complements work undertaken by other Department of Justice components and federal agencies to detect and deter identity theft. In most cases of bankruptcy related identity theft, before the bankruptcy case is filed, a person has assumed someone else's identity and obtained credit along with goods and services using the other person's identity. The scheme culminates in a bankruptcy case being filed under the assumed identity. Bankruptcy allows the perpetrator to "launder" the fraud by appearing to legitimately forestall creditor collection efforts and receive a discharge of all the debt that was incurred under the innocent victim's identity. The victim may not know about the theft or the bankruptcy filing until years later. Identity fraud is a direct assault on the integrity of the bankruptcy system and leaves innocent victims in its wake.

Over the years, the United States Trustees have referred matters to the United States Attorney for investigation and prosecution that involved the use of false names and social security numbers. Several involved bankruptcy cases that were filed in the name of individuals who did not learn of the bankruptcy filing until years later—for example, when they were seeking to purchase or refinance a home and discovered the bankruptcy filing on their credit report. However, even innocent clerical mistakes can injure unsuspecting individuals when they cause a bankruptcy to be erroneously reported.

There has been a dramatic increase in the reports of identity theft throughout the country.^{1/} Unless precautionary steps are taken, the same trend is likely to occur in the bankruptcy system because there currently is no systematic way of detecting the problem. A bankruptcy case is

^{1/} The number of identity thefts reported by U.S. banks and other financial institutions is on the rise in 2001 after more than doubling last year. "Identity Theft More Than Doubles," Reuters, October 23, 2001. Also, the Federal Trade Commission's Identity Theft Hotline and Data Clearinghouse reported that the volume of calls to the Identity Theft Hotline has grown dramatically, from 445 calls per week in November 1999 to 1,800 calls per week by June 2001. "Identity Theft Complaint Data—Figures and Trends on Identity Theft November 1999 through June 2001."

commenced by the filing of a bankruptcy petition and the payment of the requisite filing fee;^{2/} no proof of identification is required. If there is a problem with the debtor's identity, it is left to the case trustee, the United States Trustee, and other parties to uncover. Absent discovery, bankruptcy relief is fairly automatic for individual debtors. The relief includes both the automatic stay that goes into effect immediately upon the filing of a case and the discharge that occurs later. The United States Trustee Program has sought to address mounting public concern with identity theft by exploring these issues in the context of bankruptcy case administration and by commencing the Debtor Identification Pilot Program. This move also coincides with the United States Trustees' continuing responsibilities to police the system and the veracity of debtors' petitions, schedules, and statements.

In the pilot districts, all individual debtors in chapter 7 and chapter 13 were required to provide the trustee with two types of original documentation at the section 341 meeting of creditors^{3/}: photo identification and verification of social security number. These requirements allowed the trustees to confirm the identifying information that debtors disclosed on their bankruptcy petitions and to report any discrepancies to the United States Trustee offices for tracking and follow-up. The Debtor Identification Pilot Program was based on an identification project that United States Trustee Ira Bodenstein began in September 1999 in Region 11, covering Wisconsin and the Northern District of Illinois, and a practice found in several other districts around the country. Before implementing the procedures nationwide, the project was expanded and further tested from January 1, 2001 through June 30, 2001.

B. SELECTION OF THE PILOT DISTRICTS

In October 2000, before launching the Debtor Identification Pilot Program, all 21 United States Trustees were surveyed to determine to what extent chapter 7 and chapter 13 individual debtors were being required to provide photo identification and proof of social security number at the section 341 meetings. A total of 24 responses were received covering 50 offices.

A majority of the responses indicated that no identification of any kind was required. Other responses showed that, in eight of the 21 regions, some chapter 7 and chapter 13 trustees required photo identification and proof of social security number but the practices were not uniform. For example, of the trustees who required documentation, some trustees required both types of documentation in each case, while other trustees required only one type - either photo

^{2/} See 11 U.S.C. §§ 301-301, Fed. R. Bankr. P. 1002-1006, and OFFICIAL FORM 1, Voluntary Petition. A voluntary bankruptcy petition is signed by the debtor under penalty of perjury and requires the debtor's name, any other names used by the debtor during the preceding 6 years, street address and social security number including any other tax identification number used by the debtor.

^{3/} See 11 U.S.C. § 341(a). The 341 meeting is an administrative meeting that occurs within 20 to 60 days after the date of filing. Fed. R. Bankr. P. 2003. Every debtor must appear at a section 341 meeting and answer questions under oath from the case trustee and creditors.

identification or proof of social security number. Also, there were some trustees who required the documentation only when conducting a section 341 meeting via teleconference. One response indicated that one bankruptcy court had promulgated a local rule that required debtors to provide photo identification and proof of social security number unless excused by the court.

After the survey results were reviewed, the United States Trustees volunteered the offices to participate in the pilot program. The Debtor Identification Pilot Program was launched in 18 federal judicial districts, with 25 participating United States Trustee offices located in 14 regions.^{4/} Collectively, the pilot offices represent a cross section of many different regions of the country, comprised of urban areas with large caseloads and of smaller cities with corresponding smaller caseloads. The Debtor Identification Pilot Program operated in the following locations:

DEBTOR ID PILOT LOCATIONS		
UST REGION	UST OFFICE LOCATION	FEDERAL JUDICIAL DISTRICT
1	Manchester, NH	N.H.
2	Albany, NY & Utica, NY	N.D.N.Y.
4	Columbia, SC	S.C.
6	Tyler, TX	E.D. Tex
7	Austin, TX & San Antonio, TX	W.D. Tex
7	Houston, TX	S.D. Tex. (Chapter 13 only)
8	Memphis, TN & Jackson, TN	W.D. Tenn. (Chapter 7 both) (Chapter 13 Jackson only)
10	Indianapolis, IN	S.D. Ind.
13	Omaha, NE	Neb.
14	Phoenix, AZ	Ariz.
17	Las Vegas, NV & Reno, NV	Nev.
17	Sacramento, CA & Fresno, CA	E.D. Cal.
17	San Francisco, CA, Oakland, CA & San Jose, CA	N.D. Cal.
18	Anchorage, AK	Alaska
19	Denver, CO	Colo.
20	Okmulgee, OK	E.D. Okla.
20	Tulsa, OK	N.D. Okla.
21	Savannah, GA	S.D. Ga.

^{4/} The pilot program started with 19 federal judicial districts; however, one office that participated in the pilot procedures was unable to submit data reports and could not be included in the final report.

C. GUIDELINES AND PROCEDURES

1. Section 341 Meeting Notices

United States Trustee personnel coordinated with the bankruptcy judges and clerks of court to ensure that individual debtors who filed a bankruptcy case were notified that they were required to provide proof of identity and social security number when they appeared at the section 341 meeting of creditors. The notices, which are mailed by the court from the Bankruptcy Noticing Center, (Form B9F), were changed to reflect the new requirements. In the explanations section on the back of the form, language similar to the following was included:

Important notice to individual debtors: Effective January 1, 2001, all individual debtors must provide picture identification and proof of social security number to the trustee at the meeting of creditors. Failure to do so may result in your case being dismissed.

2. Acceptable Forms of Documentation

As part of the procedures for the pilot program, the participants determined that generally only original documents would be acceptable to verify identity and social security number. Acceptable forms of picture identification (ID) included: (1) driver's license, (2) government ID, (3) state picture ID, (4) student ID, (5) U.S. passport, (6) military ID, and (7) resident alien card. Acceptable forms of proof of social security number included: (1) social security card, (2) medical insurance card, (3) pay stub, (4) W-2 form, (5) Internal Revenue Service (IRS) Form 1099, and (6) Social Security Administration (SSA) report.

One document could be used for proof of both identification and social security number if it contained both a picture identification and the social security number. Examples include a military identification or driver's license in some states. The pilot participants identified six states in the pilot program that had social security numbers on state driver's licenses: Alaska, Colorado, Georgia, Iowa, Oklahoma, and Tennessee. Generally, the social security number is the default option for the driver's license number; however, a person may request not to put the social security number on the license. It was reported that at least one of these states is expected to discontinue using social security numbers on licenses in the future.

The vast majority of debtors in the pilot program used a driver's license to verify their identity and a social security card for proof of their social security number. To verify their identity, 96.5 percent of the debtors presented a driver's license, followed by a state picture identification (1.5%), military identification (.8%), U.S. passport (.6%), resident alien card (.5%), and student identification (.1%). Of the debtors who used a separate document other than a driver's license to verify their social security number, the largest number presented a social security card (89.9%), followed by a W-2 form (4.3%), pay stub (3.6%), medical insurance card (1.6%), SSA report (.9%), and IRS Form 1099 (.6%) .

3. Section 341 Meetings

Trustees were instructed to follow their customary procedures for asking the debtors to identify themselves for the record, administering the oath, and asking the debtors to verify under oath that the signatures appearing on the petition and schedules were their own and that they had reviewed the documents before signing them. Trustees were instructed to then examine the debtor's documents offered for proof of identification and social security number and compare them with the information listed on the petition.

Trustees would read the social security number into the record only when it did not match the one on the petition. Examples:

(1) If the documents offered for proof of identification and social security number matched the ones on the petition, the trustee might say "I have viewed the driver's license and original social security card (or other documents used for proof) and they match the name and social security number on the petition."

(2) If the social security number on the document offered for proof did not match the one on the petition, the trustee might say "I have viewed the original social security card and the number is [000-00-000]. It does not match the number on the petition. I have instructed the debtor (or debtor's counsel) to file an amended petition by [date], serve all creditors and the trustee, and send a 'Notice of Correction of Social Security Number' and a copy of the amended petition to the three major credit reporting agencies, with a copy to the United States Trustee." Then the trustee would ask the debtor to explain why the name or social security number on the document used for proof did not match the name or number on the petition and try to determine if there was a typographical error or a possible misuse or falsification. A few debtors testified under oath that they purchased their social security number from someone.

Trustees proceeded with the normal questions at the section 341 meeting, but did not conclude the meeting if the debtor failed to bring the proof of identification or social security number or if the name or social security number did not match the information on the petition. In such cases, the meeting was continued to the trustee's next scheduled meeting date for production of the documentation. In cases with typographical errors of social security numbers, debtors were required to file an amended petition before the next scheduled meeting. Trustees referred cases to the United States Trustee for appropriate action if debtors failed to provide the documentation or to file amended petitions.

In districts where debtors had to travel long distances to attend section 341 meetings, some trustees allowed debtors to stop by the trustee's office at their convenience, anytime before the next scheduled meeting, to show proof of identification and social security number. Some, but not all, United States Trustee's offices allowed debtors to come to their offices to show proof of identification and social security number if it was more convenient for them. In one pilot office, the United States Trustee's staff inspected and copied the debtor's identity and social security documents and had the debtor sign an affidavit developed for this purpose, affirming that

he or she was the debtor in the bankruptcy case and had provided proof of identity and social security number. Staff signed as witness to the affidavit and provided all the documents to the case trustee, who confirmed that the information matched the debtor's petition.

A "Statement Regarding Administration of Oath" was developed and circulated to the pilot offices for use when telephonic section 341 meetings were required. The person authorized to administer the oath personally verified the identity and social security number of the debtor and indicated on the form the type of original documents used for proof.

Three pilot offices reported that typographical errors of social security numbers in the court records were made by the bankruptcy clerk's office. In such cases, the clerk's office sent out corrected notices. No amended petition was required. Some pilot offices suggested it would be a good practice to ask the clerk's office to also send to the major credit reporting agencies the Notice of Correction of Social Security Number, provided as APPENDIX A.

4. Debtor Identification Reports to the United States Trustee

The pilot participants developed a Debtor Identification Report form for trustees to use when reporting identity and social security problems to the United States Trustee. These forms were adapted to meet local needs. The report included the following information: (1) a statement of the problem, such as an incorrect social security number on the petition; (2) the types of identity and social security documents that were provided by the debtor; (3) the explanation given for the error; (4) the action that needed to be taken in the case; and (5) the trustee's comments for the United States Trustee. Debtor Identification Report Forms for Trustees are provided as APPENDIX B.

Trustees were asked to submit a report to the United States Trustee's office for each case in which: (1) the debtor did not bring or refused to bring the proof of identification or social security number to the **continued** meeting, or (2) the identification or social security number did not match the name or number on the petition. Failure to provide documentation or to file an amended petition resulted in appropriate action by United States Trustee staff, such as a motion to dismiss the case, an objection to bankruptcy discharge, or an objection to confirmation of a chapter 13 repayment plan.

Trustees were asked **not** to submit a report to the United States Trustee's office if the debtor forgot to bring the proof of identification and social security number to the first scheduled meeting of creditors but later provided them either before or at the continued meeting and they matched the information on the petition. In the pilot, only problems that needed further action were reported to the United States Trustee.

D. PUBLICITY OF THE DEBTOR IDENTIFICATION PILOT PROGRAM

Before putting the pilot in place, the pilot offices coordinated with the bankruptcy judges, bankruptcy court clerks, bankruptcy practitioners, and the chapter 7 and chapter 13 trustees who administer individual cases. The pilot offices worked to ensure that the bankruptcy judges, clerks, trustees, debtors' attorneys, and the public received adequate notice of the pilot program's new requirements. Most of the pilot offices tried to give about two months notice before implementing the new procedures.

A vigorous effort was made to notify local newspapers, professional journals, newsletters, trustee associations, bar associations, and pro bono and legal services attorneys about the pilot program. The Executive Office issued a national press release announcing the pilot project and local press releases were issued by participating United States Trustees' offices. Permissible forms of picture identification and permissible forms of proof of social security number were also listed in the press releases.

The new procedures were announced by memorandum to trustees and practitioners. Information about the pilot program was posted and handed out at section 341 meetings of creditors. Some United States Trustees met with the chief bankruptcy judge in the pilot district and sent letters to all the bankruptcy judges in the pilot district describing the pilot program. United States Trustee personnel also spoke about the pilot program at seminars, bar association meetings, and trustee meetings. Overall, the response to the pilot program was extremely positive, as legal communities recognized that the new procedures would help prevent harm to innocent victims and ensure a more accurate court record.

Implementation of the new procedures went smoothly with very few problems or complaints from trustees and practitioners. Several trustees, who were initially concerned about the additional time it would take to question debtors at section 341 meetings, found that they were able to finish their meetings on time.

E. COORDINATION WITH MAJOR CREDIT REPORTING AGENCIES FOR VICTIM ASSISTANCE

A national credit reporting trade association and representatives for each of the three major credit reporting agencies were contacted and asked to coordinate and establish error-reporting protocols and national points of contact for the pilot program. This effort was designed to help innocent victims whose names and social security numbers were either intentionally or inadvertently placed on bankruptcy petitions; the goal was to establish error-reporting protocols to help ensure that they would not have a bankruptcy case recorded on their credit reports. A form "Notice of Correction of Social Security Number" was developed by the pilot offices for this purpose and circulated to trustees and practitioners. A copy of the notice is provided at APPENDIX A.

When trustees found that a debtor's documentation did not match the name or social security number on the petition, they instructed the debtor or debtor's counsel to file an amended petition by a certain date, serve all creditors and the trustee, and send a Notice of Correction of

Social Security Number and a copy of the amended petition to the three major credit reporting agencies, with a copy to the United States Trustee. Each of the three major credit reporting agencies established a special address to receive the form notices and copies of court file-stamped amended petitions from debtors and debtors' counsel to facilitate correction of typographical errors related to social security numbers on petitions.

One of the many information services contractors that provide bankruptcy data to the three major credit reporting agencies was also contacted to request information on its routine practices. It was learned that the contractor checks for new bankruptcy cases filed each day and reports the information found on each petition and summary, including the debtor's name, address, social security number, bankruptcy case chapter, case number, and financial information. Other events that are reported include the date a discharge is entered and the date a case is closed or dismissed. The contractor generally does not report information on amended petitions. If notified of an error, the contractor can investigate and correct it, but usually does so only if it receives notice while the case is still open and before the discharge is entered. After that point, it is more difficult to get the bankruptcy information removed from the consumers' credit reports. This particular contractor indicated that it receives several calls each year from consumers who have an incorrect bankruptcy case on their credit file. The time and expense necessary to correct such errors can be substantial.

Coordination with representatives of the three major credit reporting agencies continued throughout the pilot. It was learned that the credit reporting agencies' computerized screening procedures use several identifiers for individuals that should match up before a bankruptcy case is recorded on a credit file. Any mismatched information should be placed in a separate file. Even so, the representatives were interested in enhancing the quality control of their data bases and welcomed the efforts of the pilot program.

During the pilot, two of the representatives reported that the pilot procedures helped them identify and correct some errors. At the end of the six-month pilot, the representatives encouraged the United States Trustee Program to continue the procedures for requiring debtors and practitioners to send the form notice and copies of the amended petitions to help them maintain quality control of information in their data bases.

F. CIVIL ENFORCEMENT

1. Numbers of Problems Discovered, Actions Taken, and Results Achieved

During the six months of the pilot, there were 1,229 reported problems related to identity and social security numbers. Of that number, 1,006 appeared to be typographical errors on petitions made by debtors, attorneys, or petition preparers. There were 191 problems that involved questionable names or identity documents, and 32 that involved possible misuse or falsification of social security numbers. United States Trustee staff and trustees initiated 1,122 actions during the pilot. There were 934 instructions to debtors or their counsel to amend petitions, 39 motions to dismiss cases, 1 complaint objecting to the debtor's discharge, and 2 objections to confirmation of chapter 13 plans. Additionally, the pilot offices took various

actions in 146 other related matters. United States Trustee staff and trustees achieved 1,039 favorable outcomes during the pilot, including 875 amended petitions filed, 22 cases dismissed, and 1 chapter 13 plan denied. Some matters were still pending at the end of the pilot's final reporting period.

The pilot procedures created an incentive for practitioners to check their clients' proof of documentation and the accuracy of the information on the bankruptcy petitions before filing the petitions. In doing so, practitioners avoided having to amend petitions or attend continued meetings of creditors. While the vast majority of practitioners cooperated by amending incorrect petitions and sending correction notices to the credit reporting agencies, a few did not want to do so. Generally, these instances were addressed with a follow-up letter or phone call informing the attorney that a motion to dismiss or a motion to compel would be filed if the amended petition was not filed by a certain date. One pilot office reported seeking sanctions against a noncompliant attorney. Some pilot offices spent considerable time tracking the cases to be sure the amended petitions were filed and correction notices were sent.

2. Replacement or New Social Security Cards and Third Party Notifications

Two pilot offices required debtors to obtain replacement or new social security cards if they did not have them. One office that had initially required only original social security cards found that it resulted in too many continued meetings, and reconsidered its position to allow for the acceptance of other forms of identification. To help debtors get replacement or new cards, one office developed and circulated to all pilot offices a form memorandum that explained how to obtain a replacement or new social security card within 10-14 days from the Social Security Administration (SSA). The memo also explained how to obtain confirmation of a person's social security number from SSA, known as a "third party notification," within four to five days. A copy of the memorandum is provided as APPENDIX C. Pilot offices learned how to evaluate the authenticity of a social security card, e.g., the columns of the card should feel slightly raised from 1984 onward and the first three digits indicate the state of issuance.

3. Examples of Apparent Identity Fraud and Misuse of Social Security Numbers and Civil Enforcement Actions

United States Trustee staff took appropriate action in cases that were referred by the case trustees for possible identity fraud or misuse of social security numbers. If appropriate, staff conducted a public data base search of the debtors' names and social security numbers to check for identity fraud. The following are examples of possible identity fraud or misuse of social security numbers that were uncovered during the pilot program.

A foreign-born chapter 7 debtor testified under oath at the section 341 meeting that when he was 14 or 15 years old his father took him to a man to purchase a social security number. The debtor, now in his late twenties, used the social security number for 12 years until he obtained a valid social security number from the SSA when he gained permanent residence status. He used the purchased social security number on IRS W-2 forms for payroll deductions at work, IRS 1099 forms, tax returns, an application for medicaid benefits, applications to obtain credit,

and his bankruptcy petition. All the debt listed on the bankruptcy schedules were incurred under the purchased social security number. The pilot office conducted a public data base search of the purchased number and found the person whose social security number was sold to the debtor years before. Because of the misuse of her social security number, the victim experienced problems with refinancing a house and with a rollover of her retirement 401K Plan.

The Assistant United States Trustee took appropriate action in the above case by obtaining court orders granting a Bankruptcy Rule 2004 examination of the debtor and an extension of time to file a complaint objecting to the debtor's discharge or to file a motion to dismiss the case. In response, the debtor converted to a chapter 13 case and proposed to repay 100 percent to all creditors in his chapter 13 plan. He also filed and the court granted a motion to strike the purchased social security number from the court's record.

An interesting twist to the above case is that, in the process of conducting the public data base search on the victim's purchased number, the Assistant United States Trustee also found a second name connected to the number and reported the possibility that the victim's number may have been sold to more than one person. Other pilot offices also identified debtors who illegally purchased social security numbers, some of which were found to belong to other individuals.

In another case, a debtor used a social security number that belonged to his son. The debtor used the number for a long period of time to incur debt, and listed the number on his bankruptcy petition. His son discovered the misuse of his number when he tried to purchase his first car and was told he had multiple bankruptcy cases on his credit report.

One pilot office reported discovering fictitious debtors and fictitious social security numbers on several bankruptcy petitions. The Assistant United States Trustee conducted discovery and learned these cases involved an individual who engaged in an apparent fractional interest scheme related to two pieces of real estate he transferred to various fictitious individuals. He filed a series of bankruptcy cases under the fictitious names and social security numbers to delay foreclosure on the properties. The Assistant United States Trustee intends to file a motion to dismiss all the bankruptcy cases and to transmit the resulting bankruptcy court order to the three major credit reporting agencies.

In another instance, a pilot office reported that in a recently filed case the debtor used the correct name and social security number on the bankruptcy petition, but someone else had used the same social security number in a previously filed case.

Other cases were dismissed for failure to present the required identity and social security documentation at the section 341 meeting or to amend the petition. Where appropriate, the United States Trustee also referred cases to the United States Attorney for criminal investigation.

The above examples show that the pilot program was successful in detecting cases of apparent identity fraud or misuse of social security numbers. Many of these problems would not have been discovered if the pilot's procedures for verifying identity and social security numbers had not been implemented. When apparent identity fraud was uncovered, United States Trustee personnel took the appropriate steps, which included pursuing civil enforcement remedies and/or

making a criminal referral to the U.S. Attorney. Civil enforcement remedies included filing a motion to dismiss the case, objecting to the debtor's discharge, or objecting to the confirmation of a chapter 13 plan. Other examples of civil enforcement remedies may include motions for sanctions, motions to correct the record, motions to expunge the record, motions for removal of one debtor's name, motions to strike a co-debtor's name, and motions to correct a debtor's social security number. The pilot offices worked closely with other government agencies to address identity fraud, such as the Federal Bureau of Investigation, Immigration and Naturalization Service, Social Security Administration, Office of the Inspector General, and Federal Trade Commission.

II. EVALUATION

A. TRACKING AND REPORTING DATA

The pilot offices tracked chapter 7 and chapter 13 cases filed on or after January 1, 2001 through June 30, 2001 and collected data on the use of questionable identity documents, inaccurate names, and inaccurate social security numbers. Data also included the number of chapter 7 and chapter 13 cases filed in each federal judicial district each month. Pilot offices also collected data on the types of documents used for proof of identification and social security number. To facilitate comparison of chapter 7 cases with chapter 13 cases, the participating offices were asked to report, by month and by chapter, the number of: (1) questionable names or identity documents; (2) wrong social security numbers resulting from mistake (typographical error, counsel error, petition-preparer error); and (3) wrong social security numbers resulting from possible misuse or falsification.

Participating offices also reported, by chapter and by month, the number of actions taken and results achieved in cases with incorrect names, identity documents, or social security numbers, including: (1) amended petitions to be filed; (2) motions to dismiss a case filed; (3) objections to discharge filed; (4) objections to confirmation of a chapter 13 plan filed; (5) amended petitions filed; (6) cases dismissed; (7) discharges denied; (8) discharges revoked; (9) plans denied; and (10) other related matters^{5/}. Every case with an incorrect name, identity document, or social security number was to be reported in at least one of the preceding categories.

Monthly Quattro Pro tracking forms and summaries were developed by one of the pilot offices for tracking chapter 7 and chapter 13 cases separately. Samples of the two tracking forms and summaries used in the pilot are provided at APPENDIX D. In order to record all data related to the cases listed in a specific month, it was necessary to amend the monthly reports as actions were taken and results achieved later in the six-month period. For example, on the March monthly tracking spreadsheet, the pilot offices reported the activity for cases listed for that

^{5/} Examples of items listed as "other related matters" included motions for sanctions, motions to correct the record, motions to expunge the record, motions for removal of one debtor's name, motions to strike a co-debtor's name, motions to correct a debtor's social security number, and criminal referrals.

month. Also, they amended the previous monthly spreadsheets for January and February, as needed, to include any actions taken or results achieved in subsequent months.

The above described tracking method generated the most accurate data for evaluation because all of the information for cases filed or listed in one particular month appeared on one spreadsheet and the number of problems could be compared with the number of cases filed for the month. This method of tracking, however, was time consuming for those pilot offices that had to make numerous amendments to the monthly spreadsheets over the six-month period. As a result, the tracking forms and reporting requirements have been simplified for the national phase of the project. At the close of the pilot, a summary spreadsheet containing data for the six-month period was formulated for each office.

B. PROJECT MANAGEMENT

Monthly conference calls were held to enable the pilot participants to share information, develop a consensus on the “best practices” for the pilot, and discuss any issues and problems that arose. A few non-pilot offices that had implemented the identification procedures also participated in the conference calls. Instances of identity fraud and misuse of social security numbers were reported and discussed. These conference calls were helpful in evaluating the project.

The participating Assistant United States Trustees and their staffs are to be especially commended for their extraordinary work in developing best practices for operating procedures, ensuring the implementation of these procedures, and tracking and reporting the pilot data. They also generously shared their ideas during the conference calls and distributed via e-mail the materials they developed during the pilot, including forms, letters, memoranda, and pleadings.

C. STATISTICS AND SIGNIFICANT FINDINGS

1. The consumer chapter 7 and chapter 13 cases filed in the pilot districts comprised 17 percent of the total consumer cases filed nationwide.

The pilot study involved 127,590 cases filed in the first half of 2001 in 18 federal judicial districts. The cases in the 18 pilot districts accounted for about 17 percent of the 746,489 consumer chapter 7 and chapter 13 cases filed nationwide during the six-month period.

2. Overall, about one percent of cases had debtor identification (ID) or social security number (SSN) problems.

Out of 127,590 cases filed in the pilot districts, there were 1,229 debtor ID and SSN problems found in 1,225 cases (.96% of the total cases filed). Projecting the findings of the six-month pilot study to national filings indicates that at the current filing levels of chapter 7 and chapter 13 consumer cases there would be an estimated 7,166 ID and SSN problems in the 746,489 cases filed nationwide during the six-month period ended June 30, 2001.

3. The percentage of cases with problems was nearly the same for chapter 7 cases (.97%) as for chapter 13 cases (.94%).

Separate statistics were recorded in the pilot study for chapter 7 and chapter 13 cases in order to compare the findings by chapter. A Six-Month Summary of the Debtor Identification Pilot Program, tabulated by chapter, is provided in APPENDIX E. Because the incidence of errors is the same between chapters, the record keeping systems can be combined in the future.

(a) Chapter 7 cases.

During the six-month period, there were 92,575 chapter 7 cases filed in the pilot districts. A summary of chapter 7 case totals by office is provided at APPENDIX F. The pilot offices identified 901 problems related to identity and social security numbers, comprising .97 percent of the chapter 7 cases filed. Out of the 901 problems, there were 108 (12%) questionable identifications, 775 (86%) typographical errors of social security numbers, and 18 (2%) possible misuses or falsifications of social security numbers.

There were 857 actions taken by United States Trustee staff or chapter 7 trustees, who instructed debtors or their counsel to amend 720 petitions, filed 16 motions to dismiss cases, filed 1 objection to a debtor's discharge, and took action in 120 other related matters. There were 810 results achieved, including 689 amended petitions filed, 5 cases dismissed, and 116 other related matters.

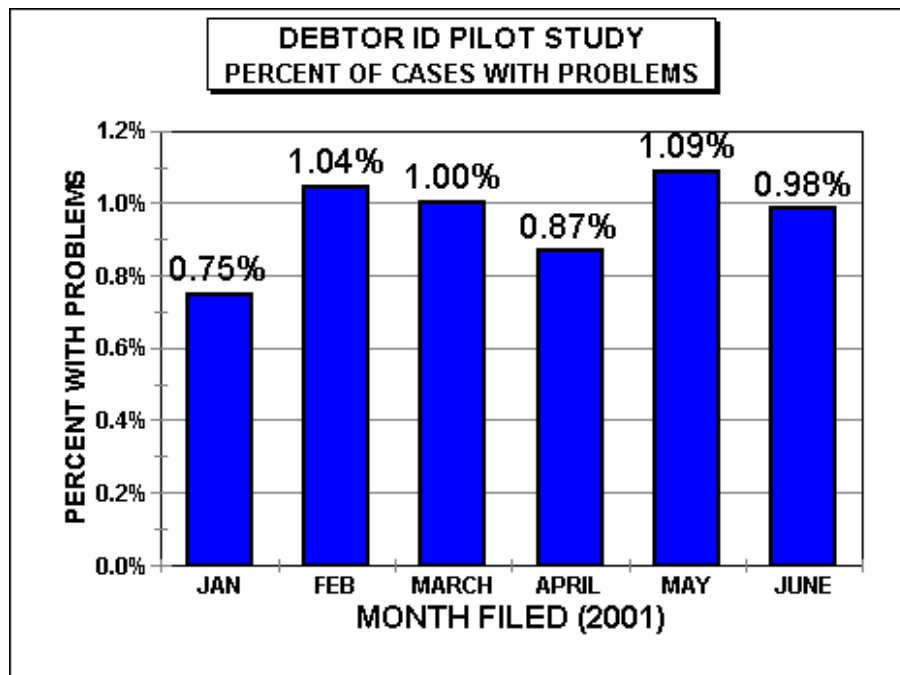
(b) Chapter 13 cases.

During the six-month period, there were 35,015 chapter 13 cases filed in the pilot districts. A summary of chapter 13 case totals by office is provided at APPENDIX G. The pilot offices identified 328 problems related to identity and social security numbers, comprising .94 percent of the chapter 13 cases filed. Out of the 328 total problems, there were 83 (25%) questionable identifications, 231 (71%) typographical errors of social security numbers, and 14 (4%) possible misuses or falsifications of social security numbers.

There were 265 actions taken by United States Trustee staff or chapter 13 trustees, who instructed debtors or their counsel to amend 214 petitions, filed 23 motions to dismiss cases, filed two objections to confirmation of chapter 13 plans, and took action in 26 other related matters. There were 229 results achieved, including 186 amended petitions filed, 17 cases dismissed, 1 plan confirmation denied, and 25 other related matters.

4. There was no clear pattern as to whether the percentage of problems in cases increased or decreased during the course of the six-month pilot study.

The percentage of problems in cases filed in January 2001 seemed a little low compared to the subsequent months, but this might be expected during the start-up phase of a new initiative. The percentage of problems in cases compared to total case filings ranged from a low of .75 percent in January to a high of 1.09 percent in May. Of the 1,225 cases with problems, there were four cases (.33%) in which both an ID and SSN problem were identified in the same case. All other cases with problems had one problem per case. The following graph shows a comparison of the percentage of cases with problems reported by month during the pilot study.



5. **The number of problems in cases by month generally fluctuated along with the increase or decrease in total bankruptcy case filings during the reporting period.**

The month of January showed the lowest number of case filings as well as the lowest number of problems during the six-month period. The month of March had the highest number of case filings and the highest number of problems during the six-month period. Generally, the number of problems increased or decreased each month along with an increase or decrease in the number of case filings, with one exception. In May, the case filings decreased from the previous month and the number of problems increased. It should also be noted that although the month of March had the highest total case filings and total problems, the month of May had the highest percentage of cases with problems (1.09%) followed by February (1.04%). The following chart shows a comparison of the number of cases filed with the number of ID and SSN problems by month.

COMPARISON OF CASES FILED WITH ID AND SSN PROBLEMS BY MONTH

Time Period	January	February	March	April	May	June	Six-Month Period
Number of Cases Filed	16,007	18,006	26,122	24,001	22,529	20,925	127,590
Number of ID & SSN Problems	120	188	262	208	245	206	1,229
Percentage of Cases with Problems	0.75%	1.04%	1.00%	0.87%	1.09%	0.98%	0.96%

6. There was significant variation by office in the proportion of problem cases.

Less than .5 percent of cases had problems in Savanna, Houston, Phoenix, and Denver, while more than 2 percent of the cases filed in Columbia, S.C., had problems. It might be worth further study to determine why there is such great variability (e.g., were the petitions more accurate in some locations, or were the trustees less diligent in discovering problems?). The six-month summaries for the individual pilot offices are provided at APPENDIX H.

Indianapolis had the highest number of cases filed (14,438) with problems (152) compared with all the participating offices, while Anchorage had the lowest number of case filings (689) and problems (7). The following chart shows the frequency of debtor ID and SSN problems reported by office:

FREQUENCY OF DEBTOR ID AND SSN PROBLEMS REPORTED BY PILOT OFFICES

UST Regions	UST Office Pilot Locations	Federal Judicial Districts	Total Cases Filed	Total ID & SSN Problems	Percent of Cases with ID & SSN Problems
1	Manchester	N.H.	2,180	17	0.78%
2	Albany	N.D.N.Y.	4,160	39	0.94%
2	Utica	N.D.N.Y.	4,077	25	0.61%
4	Columbia	S.C.	6,760	147	2.17%
6	Tyler	E.D. Tex.	5,152	69	1.34%
7	Austin	W.D. Tex.	3,823	56	1.46%
7	San Antonio	W.D. Tex.	5,047	41	0.81%
7	Houston	S.D. Tex.	3,901	8	0.21%

UST Regions	UST Office Pilot Locations	Federal Judicial Districts	Total Cases Filed	Total ID & SSN Problems	Percent of Cases with ID & SSN Problems
8	Memphis	W.D. Tenn.	2,837	29	1.02%
8	Jackson	W.D. Tenn.	1,979	29	1.47%
10	Indianapolis	S.D. Ind.	14,438	152	1.05%
13	Omaha	Neb.	3,822	19	0.50%
14	Phoenix	Ariz.	11,373	47	0.41%
17	Las Vegas	Nev.	6,838	56	0.82%
17	Reno	Nev.	2,202	34	1.54%
17	Sacramento	E.D. Cal.	7,849	117	1.49%
17	Fresno	E.D. Cal.	9,008	53	0.59%
17	San Francisco	N.D. Cal.	3,362	57	1.70%
17	Oakland	N.D. Cal.	3,624	60	1.66%
17	San Jose	N.D. Cal.	3,224	41	1.27%
18	Anchorage	Alaska	689	7	1.02%
19	Denver	Colo.	9,264	45	0.49%
20	Okmulgee	E.D. Okla.	2190	17	0.78%
20	Tulsa	N.D. Okla.	5,138	53	1.03%
21	Savannah	S.D. Ga.	6,843	11	0.16%
PILOT TOTAL			127,590	1,229	0.96%

7. While most of the problems appeared to be typographical errors of SSNs, some involved questionable names or identity documents, and apparent misuse or falsification of social security numbers.

Of the 1,229 problems reported, 1,006 (81.9%) appeared to be simple typographical errors made by debtors, attorneys, or petition preparers. Additionally, 191 (15.5%) involved questionable names or identity documents, and the remaining 32 (2.6%) involved possible misuse or falsification of SSNs.

Sacramento reported the highest number of typographical errors (102), San Francisco reported the highest number of questionable names or identity documents (43), and Memphis reported the highest number of possible misuse or falsification of SSNs (6).

8. The most common action taken in cases with ID or SSN problems was to instruct the debtor or debtor's counsel to amend the bankruptcy petition.

Of the 1,122 actions taken during the pilot study by United States Trustee staff or trustees, 934 involved instructing debtors or their counsel to amend petitions, 39 were motions to dismiss cases, 1 was a complaint objecting to the debtor's discharge, and 2 were objections to confirmation of chapter 13 plans. Additionally, the pilot offices reported taking various actions in 146 other related matters.

9. The most common result achieved in the cases with ID or SSN problems was the amendment of the bankruptcy petition.

Of the 1,039 favorable results achieved during the pilot study by United States Trustee staff or trustees, 875 amended petitions were filed, 22 cases were dismissed, and 1 chapter 13 plan was denied. Some matters were still pending at the end of the reporting period.

10. The Debtor ID Program extends protection to people who have never filed a bankruptcy case.

As noted above, at current filing levels there would be an estimated 7,166 ID and SSN problems in the 746,489 consumer cases filed nationwide during the pilot's six-month period ended June 30, 2001. Many, if not most, of the incorrect social security numbers used by debtors may belong to someone else.⁶ Individuals may not discover the error for a number of years until they try to obtain a mortgage or obtain other credit, and then may learn that their credit rating has been impaired. Even though instances of outright misuse or falsification of identity documents by debtors are less common, there may be many potential innocent victims due to unintended typographical errors.

⁶ There are about 700 million possible valid social security numbers, well over 200 million of which are currently active. Therefore, random reporting of a valid nine-digit number would give about a 30% chance of it being someone else's valid social security number. The incidence is probably higher for the number misreported by debtors; most of the incorrect numbers involved transposed digits, and therefore fell within a block of numbers that would have been given out at about the same time as the debtor's correct social security number.

III. PROJECTIONS FOR A NATIONAL PROGRAM

The pilot study involved 127,590 cases filed in the first half of 2001 in 18 federal judicial districts. The cases in the 18 pilot districts accounted for about 17 percent of the 746,489 consumer chapter 7 and chapter 13 cases filed nationwide during the six-month period.

Out of 127,590 cases filed in the pilot districts, there were 1,229 debtor ID and SSN problems found in 1,225 cases (.96% of the total cases filed). Projecting the findings of the pilot study to national filings indicates that, at the current filing levels of chapter 7 and chapter 13 consumer cases, there will be an estimated 12,948 ID and SSN problems in the 1,348,720 cases filed nationwide for the year ended June 30, 2001. Due to the anticipated increase in bankruptcy filings, the total problems will exceed 15,000 in 2002 if this situation is not corrected. The following chart shows the estimated number of problems and estimated types of problems for the year ended June 30, 2001 and year ending December 31, 2002.

Projections for ID and SSN Problems for
Year Ended June 30, 2001 and for Year Ending December 31, 2002.

Categories of Problems	Year ended June 30, 2001	Year ending December 31, 2002	Projected Percentage
Total ID and SSN problems	12,948	15,000	.96% of cases filed
Questionable names or identity documents	2,007	2,325	15.5% of problems
Typographical error counsel error or petition preparer error of social security number	10,604	12,285	81.9% of problems
Possible misuse or falsification of social security number	337	390	2.6% of problems

IV. CONCLUSION

The Debtor Identification Pilot Program successfully tested a new procedure for administering bankruptcy cases that confirms debtors' identities and social security numbers and makes bankruptcy court records more accurate. The results of the pilot indicate there are a significant number of bankruptcy cases involving incorrect social security numbers and misidentification of debtors. In fact, the number of cases with identity problems was much higher than many in the United States Trustee Program originally expected. The procedures tested in the pilot appear to resolve these very serious problems with minimal burden on all participants. The procedures also create an appropriate incentive for debtors and debtors' counsel to file accurate court documents.

Additional procedures were also successfully tested to protect innocent victims. Every bankruptcy case with an incorrect personal identifier has the potential to victimize the credit record of an innocent person. Many of these victims do not discover the problem until years after the fact when it is extremely difficult to correct. The credit reporting agencies have supported and encouraged continuation of the pilot procedures as an additional safeguard to ensure the accuracy of the information they receive.

The procedures have had a positive impact on the administration of bankruptcy cases. One United States Trustee, who had one pilot office, announced that the pilot procedures would be implemented in the entire region well before the pilot ended. Other United States Trustees have also expanded the pilot procedures within their regions. Virtually all chapter 7 and chapter 13 trustees in the pilot program embraced the procedures with enthusiasm and reported minimal, if any, difficulties.

Based on the findings of the pilot study, there would be an estimated 12,498 identity and social security number problems in consumer bankruptcy cases filed nationwide for the year ended June 30, 2001, and the total problems could be expected to exceed 15,000 in 2002 if this situation is not corrected. These numbers do not even begin to account for the potential harm that inaccurate bankruptcy information causes to victims both inside and outside the bankruptcy system. We conclude that the guidelines and procedures that were tested and developed in the pilot study provide an excellent template for a nationwide program and that such a program would represent an important step in improving the accuracy of bankruptcy court records and protecting the integrity of the bankruptcy system.